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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

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13 SUSAN NICHOLSON HOFHEINZ

14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**

16 SUSAN NICHOLSON HOFHEINZ, an
17 Individual,

18 Plaintiff,

19 v.

20 AMOK TIME TOYS., INC., a New Jersey
21 Corporation; B.F.F.F INTERNATIONAL,
22 a Business Entity of Form Unknown;
23 SMERALDI ENTERPRISES, a Business
24 Entity of Form Unknown, individually and
25 doing business as

26 "WWW.MYMOVIEMONSTERS.COM";
27 COLLECTION DX, LLC, a New Jersey
28 Limited Liability Company, individually
and doing business as

"WWW.COLLECTIONDX.COM";
SPHEREWERX, LLC, a New York
Limited Liability Company, individually
and doing business as "FOURTH

Case No.:

EDCV12-1344-JAK
(OP)

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR
CONTRIBUTORY
COPYRIGHT INFRINGEMENT;
3. VIOLATIONS OF LANHAM
ACT
(15 U.S.C. 1125)
4. STATE TRADE DRESS
INFRINGEMENT
5. STATE TRADEMARK
INFRINGEMENT
6. STATE UNFAIR
COMPETITION

Jury Trial Demanded

1 CASTLE MICROMEDIA” and
2 “WWW.FEARWERX.COM”; THIERRY
3 FITTON, and Individual, individually and
4 doing business as
5 “WWW.MONSTERSINMOTION.COM”;
6 and DOES 1-10,
7
8 Defendants.

9 Plaintiff SUSAN NICHOLSON HOFHEINZ (hereinafter “SUSAN”), by and
10 through her undersigned attorneys, hereby prays to this honorable Court for relief
11 based on the following:

12 INTRODUCTION

13 Plaintiff SUSAN is, amongst other things, the exclusive owner of the rights in
14 and to a group of creepy horror films from the 1950s. These films include
15 INVASION OF THE SAUCER-MEN (“SAUCER-MEN”), I WAS A TEENAGE
16 FRANKENSTEIN (“TEENAGE FRANKENSTEIN”), and I WAS A TEENAGE
17 WEREWOLF (“TEENAGE WEREWOLF”) (collectively “Films”).

18 Defendants AMOK TIME TOYS, INC. (“AMOK”) and B.F.F.F.
19 INTERNATIONAL (“BFFF”) have created, marketed, imported, distributed, and
20 sold a number of products that violate SUSAN’s rights in and to the Films. This case
21 seeks redress for these violations.

22 JURISDICTION AND VENUE

23 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
24 *et seq.* and the Lanham Act.

25 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and
26 1338 (a) and (b), and ancillary jurisdiction, to the extent necessary, over the
27 remaining claims.

1 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and
2 1400(a) in that this is the judicial district in which a substantial part of the acts and
3 omissions giving rise to the claims occurred.

4 **PARTIES**

5 4. Plaintiff SUSAN is an individual residing in Southern California.

6 5. Plaintiff is informed and believes and thereon alleges that Defendant
7 AMOK is a corporation organized and existing under the laws of the New Jersey and
8 is doing business in and with the State of California.

9 6. Plaintiff is informed and believes and thereon alleges that Defendant BFF is
10 a business entity of form unknown doing business in and with the State of California.

11 7. Plaintiff is informed and believes and thereon alleges that Defendant
12 THIERRY FITTON is an individual that is doing business individually and as
13 WWW.MONSTERSINMOTION.COM (collectively "FITTON") in and with the
14 State of California.

15 8. Plaintiff is informed and believes and thereon alleges that Defendant
16 SMERALDI ENTERPRISES is a business entity of form unknown, and is doing
17 business individually and as WWW.MYMOVIEMONSTERS.COM (collectively
18 "SMERALDI") in and with the State of California.

19 9. Plaintiff is informed and believes and thereon alleges that Defendant
20 COLLECTION DX, LLC is a New Jersey Limited Liability Company, individually
21 and doing business as WWW.COLLECTIONDX.COM (collectively
22 "COLLECTION DX") that does business in and with the State of California.

23 10. Plaintiff is informed and believes and thereon alleges that Defendant
24 SPHEREWERX, LLC, a New York Limited Liability Company, individually and
25 doing business as "FOURTH CASTLE MICROMEDIA" and
26 "WWW.FEARWERX.COM" (collectively "FEARWERX") does business in and
27 with the State of California.

1 11. Plaintiff is informed and believes and thereon alleges that Defendant DOES
2 1-10, inclusive, is a manufacturer, and/or a vendor (and/or agent or employee to a
3 manufacturer or vendor) of product to Defendant, which DOE Defendants have
4 manufactured and/or supplied and are manufacturing and/or supplying materials and
5 other product exploiting the Films without Plaintiff's knowledge or consent or have
6 contributed to said infringement. The true names, whether corporate, individual or
7 otherwise of Defendants DOES 1-10, inclusive, are presently unknown to Plaintiff,
8 which therefore sues said Defendants by such fictitious names and will seek leave to
9 amend this complaint to show their true names and capacities when same have been
10 ascertained.

11 12. Defendants DOES 6 through 10, inclusive, are other parties not yet
12 identified who have infringed Plaintiff's rights, have contributed to the infringement
13 of Plaintiff's rights, or have engaged in one or more of the wrongful practices
14 alleged herein. The true names, whether corporate, individual or otherwise, of
15 Defendants 1 through 10, inclusive, are presently unknown to Plaintiff, which
16 therefore sues said Defendants by such fictitious names, and will seek leave to
17 amend this Complaint to show their true names and capacities when same have been
18 ascertained.

19 13. Plaintiff is informed and believes and thereon alleges that at all times
20 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
21 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
22 at all times acting within the scope of such agency, affiliation, alter-ego relationship
23 and/or employment; and actively participated in or subsequently ratified and
24 adopted, or both, each and all of the acts or conduct alleged, with full knowledge of
25 all the facts and circumstances, including, but not limited to, full knowledge of each
26 and every violation of Plaintiff's rights and the damages to Plaintiff proximately
27 caused thereby.

CLAIMS RELATED TO THE FILMS

14. Plaintiff is the exclusive owner and copyright holder for the Films and certain if not all of the related marketing materials. Plaintiff owns in exclusivity copyright registrations for the content at issue.

15. The Films and their marketing materials were published prior to the acts alleged herein.

16. Plaintiff is informed and believes that Defendants, and each of them, took access to and received the Films and related marketing materials prior to the acts alleged therein.

17. Plaintiff is informed and believes that Defendants, and each of them, were manufacturing or having manufactured, marketing, distributing, and selling merchandise that exploits the content and characters from the Films ("Accused Product").

18. Specifically, without limitation, Plaintiff is informed and believes and thereon alleges that BFF and/or AMOK sourced, manufactured, imported, and/or had had created the Accused Product and sold, transferred, and distributed it to AMOK, FITTON, COLLECTION DX, SMERALDI, FEARWERX, and DOE Defendants, and those parties marketed and sold it to the public.

19. The above-alleged conduct was not authorized by Plaintiff, and is in violation of Plaintiff's rights as the exclusive owner of the Films.

20. Certain exemplars of the Accused Product originating from and/or offered for sale by the Defendants, and each of them, are set forth below. In the images below the viewer will find material from the Films and certain exemplars of the Accused Product that infringes SUSAN's rights in that Films:

///

SAUCER-MEN



TEENAGE FRANKENSTEIN



TEENAGE WEREWOLF



1 21. A comparison of the above image makes clear that the Accused Product is
2 substantially similar to the characters and content from the Films. This violates
3 Plaintiff's copyrights in the Films.

4 22. In addition, the Accused Product violates SUSAN's trademark and trade
5 dress rights in its use of the name of the Films and certain material from the Films
6 and/or its marketing on the Accused Product's packaging.

7 23. Defendants, nor any of them, ever obtained from SUSAN permission to
8 exploit in any way the Films, their characters, or their marketing materials.

9 24. Plaintiff is informed and believes and thereon alleges that the owners of the
10 Defendants, and each of them, were personally involved in the acts of infringement
11 alleged herein, and/or is an alter ego or proxy for the companies alleged to have
12 committed the injurious misconduct.

13 **FIRST CLAIM FOR RELIEF**

14 (For Copyright Infringement – Against All Defendants, and Each)

15 25. Plaintiff repeats, re-alleges and incorporates herein by reference as though
16 fully set forth the allegations contained in the preceding paragraphs of this
17 Complaint.

18 26. Plaintiff is informed and believes and thereon alleges that Defendants, and
19 each of them, had access to the Films, which were first released in theaters in the
20 1950s.

21 27. Plaintiff is informed and believes and thereon alleges that Defendants, and
22 each of them, misappropriated content from the Films to create, or have created,
23 products that are substantially similar to certain of the material encompassed in the
24 Films.

25 28. Plaintiff is informed and believes and thereon alleges that Defendants, and
26 each of them, infringed Plaintiff's copyright by creating, making and/or developing
27 directly infringing and/or derivative works from the Films and by producing,
28

1 distributing and/or selling product that infringes the Films through a nationwide
2 network of retail stores and on-line outlets.

3 29.Plaintiff is further informed and believes, and thereon alleges, that
4 Defendants, and each of them, created unlawful derivative works that were based on
5 the Films, and sold said works in commerce.

6 30.The above-stated acts by Defendants, and each of them, violated Plaintiff's
7 exclusive right to create derivative works from Films and her exclusive right to
8 distribute and sell product related to the Films' material.

9 31.Due to Defendants' acts of infringement, Plaintiff has suffered general and
10 special damages in an amount to be established at trial.

11 32.Due to Defendants' acts of copyright infringement as alleged herein,
12 Defendants, and each of them, have obtained direct and indirect profits they would
13 not otherwise have realized but for their infringement of SUSAN's rights in the
14 Films. As such, Plaintiff is entitled to disgorgement of Defendants' profits directly
15 and indirectly attributable to Defendants' infringement of the Films in an amount to
16 be established at trial.

17 33. Plaintiff is informed and believes and thereon alleges that the infringement
18 of the content from the Films by Defendants, and each of them, was willful, with
19 knowledge, reckless, and/or in blatant disregard for SUSAN's rights as a copyright
20 holder for the Films, and as such, Defendants, and each, are liable for willful,
21 exemplary and enhanced statutory damages of up to and including one hundred and
22 fifty thousand dollars and/or a preclusion from deducting certain costs relevant to
23 disgorgeable profits.

24 **SECOND CLAIM FOR RELIEF**

25 (For Vicarious and/or Contributory Copyright Infringement – Against All
26 Defendants, and Each)

1 34.Plaintiff repeats, realleges and incorporates herein by reference as though
2 fully set forth the allegations contained in the preceding paragraphs of this
3 Complaint.

4 35.Plaintiff is informed and believes and thereon alleges that Defendants
5 knowingly induced, participated in, aided and abetted in and profited from the illegal
6 reproduction and/or subsequent sales of the Accused Product as alleged hereinabove.

7 36.Plaintiff is informed and believes and thereon alleges that Defendants, and
8 each of them, are vicariously liable for the infringement alleged herein because they
9 had the right and ability to supervise the infringing conduct and because they had a
10 direct financial interest in the infringing conduct.

11 37.By reason of the Defendants', and each of their, acts of contributory and
12 vicarious infringement as alleged above, Plaintiff has suffered and will continue to
13 suffer substantial damages to its business in an amount to be established at trial, as
14 well as additional general and special damages in an amount to be established at
15 trial.

16 38.Due to Defendants' acts of copyright infringement as alleged herein,
17 Defendants, and each of them, have obtained direct and indirect profits they would
18 not otherwise have realized but for their infringement of SUSAN's rights in the
19 Films. As such, Plaintiff is entitled to disgorgement of Defendants' profits directly
20 and indirectly attributable to Defendants' infringement of the Films, in an amount to
21 be established at trial.

22 39. Plaintiff is informed and believes and thereon alleges that the infringement
23 of the content from the Films by Defendants, and each of them, was willful, with
24 knowledge, reckless, and/or in blatant disregard for SUSAN's rights as a copyright
25 holder for the Films, and as such, Defendants, and each, are liable for willful,
26 exemplary and enhanced statutory damages of up to and including one hundred and
27
28

1 fifty thousand dollars and/or a preclusion from deducting certain costs relevant to
2 disgorgeable profits.

3 **THIRD CLAIM FOR RELIEF**

4 **(Violations of Lanham Act (15 USC § 1125) – Against all Defendants, and**
5 **Each)**

6 40. Plaintiff repeats, realleges and incorporates herein by reference as though
7 fully set forth the allegations contained in the preceding paragraphs of this
8 Complaint.

9 41. Plaintiff is informed and believes and thereon alleges that Defendants, and
10 each of them, are passing off the Accused Product under the Films' titles, and in
11 packaging similar to and evoking that used in the Films and their marketing
12 materials, in interstate commerce.

13 42. Plaintiff is informed and believes and thereon alleges that the passing off
14 by Defendants, and each of them, of Accused Product under the Films' titles causes
15 consumer confusion as to the source of the Accused Product and falsely implies a
16 sponsorship or association between the Films and the Accused Product and/or the
17 Defendants, and each of them.

18 43. Plaintiff is informed and believes and thereon alleges that the passing off
19 by Defendants, and each of them, of Accused Product under the Films' titles
20 misrepresent the nature, characteristics, and qualities of the Accused Product, as the
21 Accused Product is not authorized product, and the packaging of the Accused
22 Product is confusingly similar to the content in the Films and its marketing materials.

23 44. The above misstatements and deceptions by Defendants, and each of them,
24 were material, and resulted in harm and damages to Plaintiff in an amount to be
25 established at trial.

26 45. Plaintiff has no adequate remedy at law and is entitled to injunctive relief
27 pursuant to 15 U.S.C. § 1116(d).
28

1 46. Plaintiff is entitled to recover its actual damages and Defendants' profits
2 pursuant to 15 U.S.C. § 1117(a); treble damages pursuant to 15 U.S.C. § 1117(a) and
3 (b); attorneys' fees and costs pursuant to 15 U.S.C. § 1117(a); seizure of all
4 infringing goods pursuant to 15 U.S.C. § 1116(d); and impoundment and destruction
5 of all infringing goods pursuant to 15 U.S.C. § 1118.

6 **FOURTH CLAIM FOR RELIEF**

7 **(Trade Dress Infringement in Violation of California Business and**
8 **Professions Code Section 14245 – Against All Defendants, and Each)**

9 47. Plaintiff repeats, realleges and incorporates herein by reference as though
10 fully set forth the allegations contained in the preceding paragraphs, inclusive, of this
11 Complaint.

12 48. Defendants' unauthorized use of material from the Films and their
13 marketing materials in connection with the sale, offering for sale, distribution or
14 advertising of its products is likely to cause confusion or mistake or to deceive as to
15 the source or origin of its products in violation of California Business and
16 Professions Code Section 14245.

17 49. On information and belief, Defendants', and each of their, infringement has
18 been with knowledge of Plaintiff's rights.

19 50. Plaintiff has been, is now, and will be irreparably injured and damaged by
20 Defendants' aforementioned acts, and unless enjoined by the Court, Plaintiff will
21 suffer further harm to its name, reputation and goodwill.

22 **FIFTH CAUSE OF ACTION**

23 **(Trademark Infringement under Cal. Bus. & Prof. Code § 17200 and California**
24 **Common Law against all Defendants)**

25 51. Plaintiff repeats, re-alleges and incorporates herein by reference as though
26 fully set forth the allegations contained in the preceding paragraphs of this
27 Complaint.

1 52. Defendants', and each of their, use of the Films' titles, without Plaintiffs'
2 consent, constitutes trademark infringement and unfair competition in violation of
3 California common law, in that, among other things, such use is likely to cause
4 confusion, deception and mistake among the consuming public and trade as to the
5 source, approval or sponsorship of the products offered by Defendants.

6 53. The acts of Defendants complained of herein constitute trademark
7 infringement and unfair competition in violation of the statutory law of the State of
8 California, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, in that, among other things,
9 such use is likely to cause confusion, deception and mistake among the consuming
10 public and trade as to the source, approval or sponsorship of the Accused Product
11 offered by Defendants. Plaintiff is informed and believes that unless said conduct is
12 enjoined by this Court, Defendants will continue and expand those activities to the
13 continued and irreparable injury of Plaintiff. This injury includes a reduction in the
14 distinctiveness of Plaintiff's trademark and trade dress, and injury to Plaintiff's
15 reputation that cannot be remedied through damages, and Plaintiff has no adequate
16 remedy at law. Plaintiff is entitled to preliminary and permanent injunctions
17 restraining and enjoining Defendants and its agents, servants, employees, and all
18 persons acting thereunder, in concert with, or on their behalf, from using in
19 commerce material from the Films or their marketing materials.

20 54. As a direct and proximate result of Defendants' willful and intentional
21 actions, Plaintiff has suffered damages in an amount to be determined at trial and,
22 unless Defendants are restrained, Plaintiff will continue to suffer irreparable damage.

23 **SIXTH CAUSE OF ACTION**

24 **(California Unfair Competition under Cal. Bus. & Prof. Code § 17200 and**
25 **California Common Law against All Defendants)**

- b. A disgorgement of profits and other damages arising from such infringement, pursuant to 15 U.S.C. § 1117, and award all damages called for therein;
- c. An award of actual damages sustained by Plaintiff;
- d. That Plaintiff be awarded its attorneys' fees as available under 17 U.S.C. § 101, *et seq.*, 17 U.S.C. § 1202, and 15 U.S.C. § 1117;
- e. An injunction against continued infringement of Plaintiff's trade dress and trademark, pursuant to 15 U.S.C. § 1116, and the unfair competition provisions;
- f. An injunction against continued infringement of Plaintiff's trade dress and trademark, pursuant to Cal Bus & Prof Code § 14245;
- g. An order directing Defendants to file with the court and serve on Plaintiff a report setting forth an accounting and the manner and form in which Defendants have complied with the injunction, pursuant to 15 U.S.C. § 1116;
- h. That Plaintiff be awarded pre-judgment interest as allowed by law;
- i. That Plaintiff be awarded the costs of this action;
- j. That Plaintiff be awarded treble damages and/or punitive damages in an amount sufficient to deter and punish Defendant, on account of Defendant's willful violation of Federal, California, and common law; and declaring this case to be an exceptional case within the meaning of 15 U.S.C. § 1117;
- k. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper;
- l. That an imposition of a constructive trust be entered over all products and materials bearing, in whole or in part, any material from the Films or their marketing materials, to the extent said products and materials were

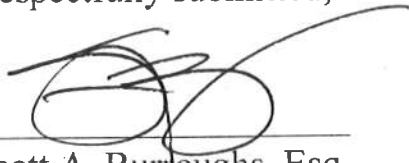
1 created, purchased, sold, advertised, or distributed in violation of
2 Plaintiff's rights therein, as well as all registrations relating to Plaintiff's
3 works filed by Defendants, any of them, and any third parties, and all
4 profits, monies, royalties, and any other benefits derived or obtained by
5 Defendants, or any of them, from the wrongful ownership, use,
6 purchase, sale, distribution, licensing, or exploitation of Plaintiff's works
7 of art.

8 A TRIAL BY JURY PURSUANT TO FED. R. CIV. P. 38 AND
9 CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED.

10 Respectfully submitted,

11
12 Dated: August 10, 2012

By:

13 
14 Scott A. Burroughs, Esq.
15 DONIGER / BURROUGHS
16 Attorneys for Plaintiff
17 SUSAN NICHOLSON HOFHEINZ
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Stephen M. Doniger, Esq. (SBN 179314)
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UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

SUSAN NICHOLSON HOFHEINZ, an Individual,

CASE NUMBER

PLAINTIFF(S)

v.

EDCV 12-1344-JAK (OP)

AMOK TIME TOYS., INC., a New Jersey
 Corporation; et al.
 [See Attached "Schedule A"]

DEFENDANT(S).

SUMMONS

TO: DEFENDANT(S): _____

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Scott A. Burroughs, Esq., whose address is DONIGER / BURROUGHS APC 300 Corporate Pointe, Ste. 355 Culver City, CA 90230. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: AUG 13 2012

By: MARILYN DAVIS
 Deputy Clerk

(Seal of the Court)



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

“SCHEDULE A”

SUSAN NICHOLSON HOFHEINZ, an Individual,

Plaintiff,

v.

AMOK TIME TOYS., INC., a New Jersey Corporation; B.F.F.F
INTERNATIONAL, a Business Entity of Form Unknown; SMERALDI
ENTERPRISES, a Business Entity of Form Unknown, individually and doing
business as “WWW.MYMOVIEMONSTERS.COM”; COLLECTION DX, LLC, a
New Jersey Limited Liability Company, individually and doing business as
“WWW.COLLECTIONDX.COM”; SPHEREWERX, LLC, a New York Limited
Liability Company, individually and doing business as “FOURTH CASTLE
MICROMEDIA” and “WWW.FEARWERX.COM”; THIERRY FITTON, and
Individual, individually and doing business as
“WWW.MONSTERSINMOTION.COM”; and DOES 1-10,

Defendants.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEETI (a) PLAINTIFFS (Check box if you are representing yourself ☐)
SUSAN NICHOLSON HOFFHEINZ, an Individual,DEFENDANTS
AMOK TIME TOYS, INC., a New Jersey Corporation; et al.

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

Stephen M. Doniger (SBN 179314) 300 Corporate Pointe, Suite 355
Scott A. Burroughs (SBN 235718) Culver City, California 90230
DONIGER/BURROUGHS, APC Tel: (310) 590-1820; Fax: (310) 417-3538

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant.)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No☐ MONEY DEMANDED IN COMPLAINT: \$

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Copyright Act of 1976, Title 17 U.S.C., § 101 et seq. and the Lanham Act

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL	PETITIONS	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	PROPERTY	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 530 General Habeas Corpus	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 891 Agricultural Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 465 Other Immigration Actions			<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 245 Tort Product Liability				
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 290 All Other Real Property				
<input type="checkbox"/> 950 Constitutionality of State Statutes					

FOR OFFICE USE ONLY: Case Number: EDCV12-1344

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes
If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Susan Nicholson Hofheinz - Los Angeles County	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

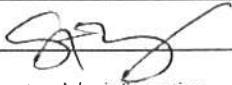
County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
B.F.F.F INTERNATIONAL - Los Angeles County	AMOK TIME TOYS., INC. - New Jersey
SMERALDI ENTERPRISES - Riverside County	COLLECTION DX, LLC - New Jersey
THIERRY FITTON - Los Angeles County	SPHEREWERX, LLC - New York

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date 8/10/2012

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge John Kronstadt and the assigned discovery Magistrate Judge is Oswald Parada.

The case number on all documents filed with the Court should read as follows:

EDCV12- 1344 JAK (OPx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.